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Looking Toward Restorative Justice for Redlined Communities Displaced by Eco-Gentrification

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MICHIGAN LAW ON RACE & LAW

JOURNAL *of* ENVIRONMENTAL & ADMINISTRATIVE LAW

SPECIAL ISSUE

WINTER 2021

Looking Toward Restorative Justice for Redlined Communities Displaced by Eco-Gentrification

Helen H. Kang

MJEAL chose to publish Helen Kang's piece, *Looking Toward Restorative Justice for Redlined Communities Displaced by Eco-Gentrification*, because it offers a unique analytic approach for analyzing the roots of environmental racism and the appropriate tools to help rectify it. She offers an argument for why restorative justice needs to be the framework and explains how we can accomplish this in the context of a whole government solution. MJEAL is excited to offer what will be an influential approach for environmental restorative justice to the broader activist and academic community.



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RESTORATIVE JUSTICE FOR REDLINED COMMUNITIES DISPLACED BY ECO-GENTRIFICATION

Helen H. Kang[★]

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INTRODUCTION

The de jure segregation of the Bayview-Hunters Point community in the famously progressive City of San Francisco, California, has had enduring impacts that current Black residents still face.¹ The legacy of the

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1. I use the terms “African American” and “Black” mostly interchangeably as my clients from Bayview-Hunters Point do with me. At times, I also use the same terms employed by data collectors or the authors I cite to, including the term “black.” As to the

invidious racial discrimination includes existing pollution from facilities that support the residents of the rest of the city, radioactive contamination at the Hunters Point Naval Shipyard that attests to our nation's nuclear past, and lack of amenities such as access to healthy foods and sanitation services, in addition to other inequities in education and policing.

Still, the community has seen marked improvements in some respects: the only two power plants in the city that were located in the Bayview neighborhood are now gone, and the miles of trails along the southeastern shore of San Francisco are accessible to residents. Because of the displacement of the Bayview community's Black population, in what has been labeled a "Black exodus," however, most of the past residents who bore the burden of environmental disparities are no longer living in the historically Black neighborhood. The benefits of any positive developments in the community, therefore, do not inure to them. In fact, compounding the historical harms, eco-gentrification of the neighborhood is contributing to intensifying the displacement that began in the 1970s.

Seeking restorative justice for Bayview residents, past and present, thus requires recognizing the connections between *de jure* segregation, pollution, and displacement. The problems Bayview residents face are systemic problems rooted in its segregation past and the virulent prejudices Black communities still face. These systemic problems need systemic solutions. To remedy the injustices of this past, the traditional distributive and procedural lens typically employed to achieve environmental justice, while still fundamental, lends too narrow a focus. Instead, achieving true justice requires the hard work of achieving restorative justice: what has been wrested from these communities and residents should be restored to make them whole. Both the federal and local governments who were actors in creating the injustice should employ a restorative justice framework to redress the harm done to the displaced Bayview residents.

I. DE JURE SEGREGATION IN THE CITY OF SAN FRANCISCO AND THE DISPLACEMENT OF BLACK RESIDENTS FROM THE BAYVIEW-HUNTERS POINT NEIGHBORHOOD

As the Great Migration was transforming our nation, when six million African Americans escaped the Jim Crow South, cities that served as "receiving stations" took on the task of recreating the echoes of Jim Crow by intentionally creating segregated housing and, eventually,

Bayview-Hunters Point neighborhood, I generally refer to both neighborhoods as Bayview here and at times to the separate area of Hunters Point as Hunters Point.

neighborhoods.² In *The Color of Law: A Forgotten History of How Our Government Segregated America*, Richard Rothstein details how during the New Deal era and after, governments at all levels intentionally “created segregation in every metropolitan area of the nation.”³ That is, “[t]oday’s residential segregation in the North, South, Midwest, and West is not the unintended consequence of individual choices and of otherwise well-meaning law or regulation but of unhidden public policy.”⁴

In Rothstein’s telling, segregation in the San Francisco Bay Area serves as a particularly damning instance of government-sponsored or de jure segregation. In San Francisco, as in other areas of the San Francisco Bay Area such as East Palo Alto, Richmond, and West Oakland, the government created segregated areas where they did not previously exist: unlike in other metropolitan areas, there had been too few African Americans in areas like San Francisco for segregation patterns to cement themselves before the Great Migration of African Americans through the midst of World War II.⁵

Beginning at least in 1942, both the U.S. government through the Navy and the City of San Francisco established segregated housing in the Bayview neighborhood.⁶ Once segregated, the demographic pattern hardened in Bayview as white residents moved out. The pattern also in-

2. ISABEL WILKERSON, *THE WARMTH OF OTHER SUNS: THE EPIC STORY OF AMERICA’S GREAT MIGRATION* 19, 447 (2011); see generally RICHARD ROTHSTEIN, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* (2017) [hereinafter, “Rothstein”]. Of course, even starting with segregation ignores the connection between environmental injustice and slavery. See generally Nadia Ahmad, “Mask Off” – *The Coloniality of Environmental Justice*, 24 WIDENER L. REV. 195 (2019); Robin Morris Collin & Robert Collin, ENVIRONMENTAL REPARATIONS IN THE QUEST FOR ENVIRONMENTAL JUSTICE: HUMAN RIGHTS AND THE POLITICS OF POLLUTION (Bullard, ed. 2005) (connecting the “pervasive, predictable, and lethal” gaps in racialized disparities to slavery and advocating environmental reparations, which include cleanup and conversion of industries from polluting to clean ones).

3. Rothstein, *supra* note 2, at 13.

4. *Id.*

5. Rothstein, *supra* note 2, 13–14. Still, segregation in San Francisco existed before the Great Migration, even if San Francisco might not have been hyper-segregated. Bianca Taylor, *How ‘Urban Renewal’ Decimated the Fillmore District, and Took Jazz with It*, KQED (June 25, 2020), <https://www.kqed.org/news/11825401/how-urban-renewal-decimated-the-fillmore-district-and-took-jazz-with-it> (“San Francisco in the early 1900’s was segregated.”). Hypersegregation means the “separation of the races that was so total and complete that blacks and whites rarely intersected outside of work.” WILKERSON, *supra* note 2, at 447.

6. Helen H. Kang, *Respect for Community Narratives of Environmental Injustice: The Dignity Right to Be Heard and Believed*, 25 WIDENER L. REV. 219, 224 (2019). Bayview and Hunters Point are two separate neighborhoods of about six square miles. Saara Nafici, *The People or the Place?: Revitalization/Gentrification in San Francisco’s Bayview Hunters Point*, DSPACE@MIT, 9 n.4 (June 2006), <https://dspace.mit.edu/handle/1721.1/37868>.

tensified when the city's urban "renewal" policies displaced some African American residents from another part of the city into Bayview. Since the 1970s, demographics of the area have shifted, draining the neighborhood of longtime Black residents and their children in response to the pressures of gentrification and housing discrimination against low-income residents.

A. *The De Jure Segregation of Bayview-Hunters Point*

The Bayview and Hunters Point neighborhoods are located in southeast San Francisco, about six miles from downtown as the crow flies. The San Francisco Bay lies along the eastern shore of Hunters Point. The Bayview has historically been home to African Americans who sought a better life, away from the Jim Crow South. Among those pioneering residents were Pullman porters, members of the military, and civilian workers at the Hunters Point Naval Shipyard.⁷ Ironically, but reflective of the deeply-embedded racial hierarchies, these residents did not escape the reaches of Jim Crow even in San Francisco. The same underlying prejudices and the entrenched belief in the supremacy of the white race and the "otherness" of Black and other people of color that infected the Jim Crow South were prevalent in the city, as elsewhere.

Since before 1940, when the U.S. Navy assumed control of what was once a commercial drydock to use it as a shipyard for building, repairing, and maintaining naval ships, the shipyard was a presence in the Hunters Point neighborhood. Occupying some 500 acres, the site has a big footprint both physically and historically.⁸ During wartime, the shipyard employed as many as 17,000 to 18,500 people.⁹ Housing was in short supply as in other parts of the nation,¹⁰ and the City of San Francisco set about to build public housing to accommodate working families.¹¹ When the San Francisco Housing Authority attempted to create integrated housing for "14,000 workers and their families" at the shipyard in 1942, the Navy objected on the basis that "integration would cause conflicts among workers and interfere with ship repair" much needed in the

7. ALBERT S. BROUSSARD, BLACK SAN FRANCISCO: THE STRUGGLE FOR RACIAL EQUALITY IN THE WEST, 1900-1954, at 133-34 (1993), and other sources cited in Kang, *supra* note 6, at 221 n.7 (2019).

8. Kang, *supra* note 6, at 224.

9. *Id.*

10. See generally Rothstein, *supra* note 2, at 17.

11. "Public housing's original purpose was to give shelter not to those too poor to afford it but to those who could afford decent housing but couldn't find it because none was available." *Id.*

war.¹² The housing authority then acquiesced and moved African Americans to “separate sections.”¹³ The housing authority advertised vacant units to other white San Francisco residents, even as African American workers remained on the waitlist for available units.¹⁴

B. *Continuation of De Jure Segregation Through Redlining and Other Government Actions*

As Rothstein chronicles, de jure segregation entailed government-initiated discriminatory lending and mortgage guarantee policies, which limited the freedom of people of color, particularly Black people, to live where they wished. These policies, supported by cities and their departments, affected not only Black families in the post-Depression era but also their descendants, severely limiting access to adequate education, health care, and the ability to pass on accumulated wealth that might have been gained through building equity in residential property.¹⁵

Specifically, mortgage insurers or guarantors such as the Federal Housing Administration and U.S. Department of Veteran Affairs denied African American homeownership in most suburbs. In addition, preceding those practices, the Home Owners’ Loan Corporation (“HOLC”) created “Residential Security Maps” that divested African Americans of access to home loans and a chance at building wealth in urban areas where they lived.¹⁶ Created purportedly to assess mortgage risks, the

12. *Id.* at 27.

13. *Id.* at 28.

14. *Id.*

15. As Rothstein explains,

HOLC mortgages were amortized, meaning that each month’s payment included some principal as well as interest, so when the loan was paid off, the borrower would own the home. Thus for the first time, working- and middle-class home-owners could gradually gain equity while their properties were still mortgaged. If a family with an amortized mortgage sold its home, the equity (including any appreciation) would be the family’s to keep.

Id. at 63. The HOLC was “a government-sponsored corporation” established in 1933 “under New Deal legislation to help those in danger of home foreclosure.” Shadi O. Tehrani, Shuling J. Wu & Jeffnir D. Roberts, *The Color of Health: Residential Segregation, Light Rail Transit Development, and Gentrification in the United States*, INT’L J. OF ENV’T RESEARCH & PUB. HEALTH (Sept. 2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6801918/>; Rothstein, *supra* note 2, at 63.

16. “[T]he Federal Housing Administration and Veterans Administration not only refused to insure mortgages for African Americans in designated white neighborhoods . . . [but] also would not insure mortgages for whites in a neighborhood where African Americans were present.” Rothstein, *supra* note 2, at 12.

HOLC maps coded areas like Hunters Point where African Americans lived with the color red, which designated areas that HOLC determined to present the highest loan risk, regardless of whether “it was a solid middle-class neighborhood of single-family homes.”¹⁷ The areas with the “safest” mortgage risks were coded green.

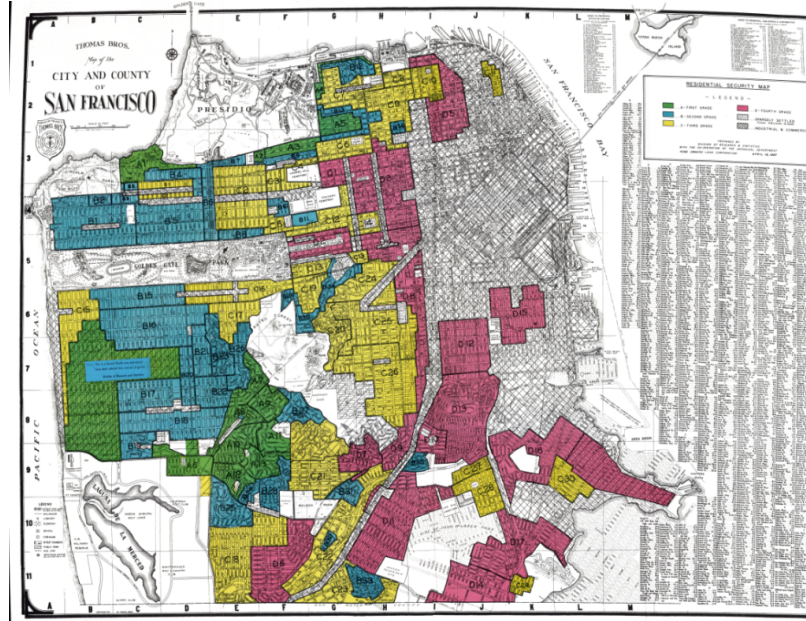


FIGURE 1 SOURCE: MAPPING INEQUALITY

17. *Id.* at 64; see Mapping Inequality, a collaborative project of three teams from the University of Richmond, Virginia Tech, University of Maryland, and Johns Hopkins. *About Mapping Inequality*, MAPPING INEQUALITY: REDLINING IN NEW DEAL AMERICA, <https://dsl.richmond.edu/panorama/redlining/#loc=6/35.889/-89.692&text=about>.

Mapping Inequality updates the study of New Deal America, the federal government, housing, and inequality for the twenty-first century. It offers unprecedented online access to the national collection of “security maps” and area descriptions produced between 1935 and 1940 by one of the New Deal’s most important agencies, . . . HOLC (pronounced “holk”). HOLC recruited mortgage lenders, developers, and real estate appraisers in nearly 250 cities to create maps . . . and their accompanying documentation [that] helped set the rules for nearly a century of real estate practice. . . . [M]ore than a half-century of research has shown housing to be for the twentieth century what slavery was to the antebellum period, namely the broad foundation of both American prosperity and racial inequality.

See also University of Richmond, *Mapping Inequality*, DATA-SMART CITY SOLUTIONS (2017), <https://datasmart.ash.harvard.edu/solutions/mapping-inequality>.

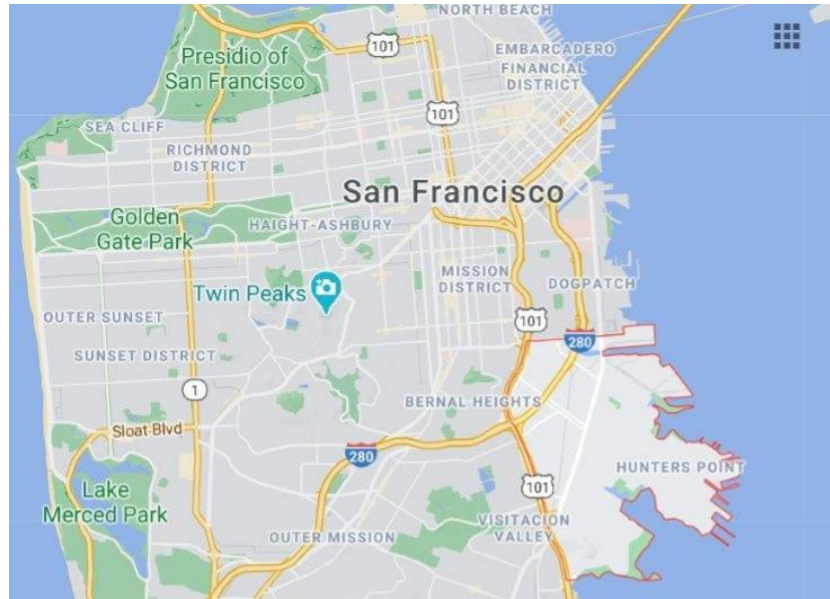


FIGURE 2 SOURCE: MAP DATA 2020 GOOGLE

Map cropped to match the HOLC map in Figure 1; the area demarcated in red is Bayview-Hunters Point.

C. Intensification of Segregation and the Subsequent Displacement of African Americans Out of the City

Several economic and policy developments devastated the African American residents of the city in the post-war decades. In the 1960s and 1970s, changes in the maritime industry in San Francisco and the closure of the Hunters Point Naval Shipyard resulted in crushing job losses for African Americans in Bayview.¹⁸ In those decades and since, the efforts led by the city government first resulted in concentrating the city's Black residents in Bayview, intensifying segregation, and then, after the 1970s, displacing them from the city. Although come to be known as the "Black exodus," there was no Moses leading these residents into the land of milk and honey—more accurately, the movement resulted from expulsion, whether intentional or not.¹⁹

18. Marcia Rosen & Wendy Sullivan, *From Urban Renewal and Displacement to Economic Inclusion: San Francisco Affordable Housing Policy 1978-2014*, 25 STAN. L. & POL'Y REV. 121, 124 (2014).

19. See generally Sarah Erlich, *The Disappearance of Black San Franciscans: 1970-2010*, 1 ELEVEN 29 (2010).

1. Displacement: Out of the Western Addition

Around the same time the housing authority of the City of San Francisco had intentionally segregated the housing at the Hunters Point shipyard, the authority created segregated housing in the Western Addition—four buildings for white families and one for African Americans.²⁰ One of the few areas where African Americans and immigrants from both Europe and Asia could live in the city, the Western Addition, including the Fillmore District in its eastern section, became a thriving cultural center for the city's Black residents, as Black residents began to occupy some of the residences and businesses.²¹ In 1947, however, the San Francisco Planning and Housing Association published a report called "Blight and Taxes," arguing that the city's "cancerous growth" of areas like the Western Addition were imposing cost burdens on the residents in "better areas" and that "it costs more to keep the slums than to tear them down and rebuild."²²

Subsequently, pursuant to the federal 1949 Housing Act, under which many urban areas considered "slums" were demolished for development funding, the City of San Francisco targeted the "low income and not-white" and once-integrated area of the Fillmore, whose residents by then were mostly Black, for the largest redevelopment project on the west coast.²³ Over 4,700 households "were forced out of their homes, often without much warning or adequate compensation," through eminent domain, and the city evicted 13,000 more people; nearly "2,500 Victorian homes were demolished" once the bulldozers that began their work finished.²⁴ About 900 businesses were shut down, among them Black-owned banks, small businesses such as retail shops and barbershops, and entertainment businesses, including jazz clubs that featured the famous

20. *Supra* note 18; see Adrienne R. Hall, *SFHA's "Neighborhood Pattern" and Geographies of Segregation*, in (DIS)LOCATION: BLACK EXODUS 30, 31 (2019), <https://archive.org/details/dislocationblackexodus/page/n33/mode/2up> (referencing the chart on page 31 titled, "Segregated Public Housing and Redlined Neighborhoods").

21. Kang, *supra* note 6, at 257; Taylor, *supra* note 5.

22. SAN FRANCISCO PLANNING AND HOUSING ASSOCIATION, BLIGHT AND TAXES 1, 10 (1947).

23. Taylor, *supra* note 5. See also Erlich, *supra* note 19, at 33, 38.

24. Erlich, *supra* note 19, at 38-39; Leslie Fulbright, *Sad Chapter in Western Addition History Ending*, SF GATE (July 21, 2008, updated Feb. 9, 2012), <https://www.sfgate.com/bayarea/article/Sad-chapter-in-Western-Addition-history-ending-3203302.php>; Rachel Brahinsky, *Fillmore Revisited – How Redevelopment Tore Through the Western Addition*, SAN FRANCISCO PUBLIC PRESS (Sept. 23, 2019), <https://www.sfpublishing.org/fillmore-revisited-how-redevelopment-tore-through-the-western-addition/#>. Erlich states that the work began in 1956. Erlich, *supra* note 19, at 38.

artists of the time.²⁵ The city's redevelopment agency evicted renters and property owners and gave them "Certificates of Preference vouchers to return upon the properties' redevelopment, and \$25 to \$50 for moving expenses."²⁶ But affordable replacement housing promised to residents largely failed to materialize at the end of the decades-long redevelopment process and in the aftermath of the physical destruction of the neighborhood.²⁷ Most Black families were displaced; some of the displaced residents during the lengthy process moved into Bayview; some moved out of the city altogether into Oakland across the bay and farther out to Antioch, Fairfield, Pittsburg, and Vallejo, and still farther out to Stockton.²⁸

In the end, the Western Addition's urban renewal was a failure by any reckoning.²⁹

2. Displacement: Out of Bayview-Hunters Point

Bayview is no longer a majority Black neighborhood and has been that way since the beginning of the new century. Asian Americans and Latinos—even separately—far outnumber Black residents.³⁰ As of 2017,

25. Fulbright, *supra* note 24. Recounting the history of the "redevelopment," a former resident of the Western Addition estimates that there were at least 600 Black-owned businesses in the Western Addition. Arnold Townsend, *It Was Too Late, in (Dis)LOCATION: BLACK EXODUS* 51, 52 (2019), <https://antievictionmap.com/dislocation/black-exodus>.

26. Erlich, *supra* note 19, at 38.

27. *Id.* at 40-41 (describing the 1985 addition of condominiums, the razing of public housing, and racial targeting of Blacks in the Western Addition by the police).

28. *Id.* at 31.

29. "Theodore Miller, an aide to Mayor Edwin M. Lee, called it a "terrible undertaking that had catastrophic consequences." Thomas Fuller, *The Loneliness of Being Black in San Francisco*, N.Y. TIMES (July 21, 2016), <https://www.nytimes.com/2016/07/21/us/black-exodus-from-san-francisco.html>.

30. Comparisons of the various demographic data are not exact. Some use neighborhood statistics and others, census districts. Regardless, it is clear that demographics have shifted rapidly in San Francisco in recent years. In 2000, blacks in Bayview numbered 48 percent of the population. Nafici, *supra* note 6, at 15. In 2010, African Americans comprised about 28 percent of Bayview's population. By 2017, the Black population in Bayview dwindled to ten percent. *American Community Survey 1 year estimates, retrieved from Census Reporter Profile for San Francisco County (South Central)—Bayview & Hunters Point PUMA, CA*, U.S. CENSUS BUREAU (2017), <https://censusreporter.org/profiles/79500US0607507-san-francisco-county-south-centralbayview-hunters-point-puma-ca/> (43 percent Asian-Pacific Islanders, 35 percent Hispanic, 10 percent black, and 10 percent white). Citywide, San Francisco "experienced the most precipitous decline of its African American population" between 1970 and 2010, from 13.4 percent to 6.1 percent. John Diaz, *The quiet exodus of African Americans from SF*, SF Gate (Dec. 4, 2011), <https://www.sfgate.com/opinion/diaz/article/The-quiet-exodus-of-African-Americans->

Black residents were ten percent of the neighborhood's population, as compared to 72 percent in 1970.³¹

This "Black exodus," more accurately characterized from the residents' point of view as an "expulsion," has largely been attributed to economic factors such as the prohibitive cost of living in San Francisco from the influx of dot com workers. But the realities are far more complex and evade systematic study through a simplistic review of demographics data, as Sarah Erlich's work, centered on resident interviews, demonstrates:

Many African Americans I interviewed feel systematically excluded and targeted for expulsion from San Francisco. Furthermore, interviewees separately and repeatedly identified calculating and criminalizing instigators of displacement [aside from the city's policy in the Western Addition:] San Francisco Housing Authority's demolition of public housing and enforcement of a "One Strike and You're Out" law for public housing residents; the San Francisco Police Department's enforcement of gang injunctions in the Western Addition and Bayview Hunters Point; and real estate agencies' and banks' issuance of subprime mortgage loans[;] the exorbitant expense to rent or own housing in San Francisco; the level of violent crime and environmental health hazards that pervade the few neighborhoods African Americans find accessible in the housing market; the underinvestment in public education, which undermines the city's appeal for raising children; and the absence of a visible African American middle class.³²

Nevertheless, Bayview faces enormous pressures from gentrification: residents who owned homes are growing old, and the next generation can no longer afford to live in the houses where their grandparents and parents built their lives and community.³³ Targeting Bayview residents for

from-S-F-2345107.php. The demographics terminologies used in this footnote follow the convention of the data reporters.

31. *American Community Survey 1-year estimates*, *supra* note 31.

32. Erlich, *supra* note 19, at 30. Erlich points out that income as a reason for displacement does not fully bear out; a significant percentage of upper (63 percent) and middle class (33 percent) Black residents moved out of the city between 2000 and 2009. *Id.* Residents viewed the gang injunction, which the San Francisco City Attorney obtained, as a method of eradicating Black families from San Francisco because broad application of the injunction forced youth targets and their families to be expelled from public housing. *Id.* at 43-44.

33. The neighborhood has traditionally enjoyed high homeownership by African Americans who had stable employment. U.S. Census Bureau, *Census Explorer*, <http://www.census.gov/censusexplorer/censusexplorer.html> (census tracts 231.03, 232,

subprime mortgages also resulted in foreclosures.³⁴ Adding further to the pressures, the City of San Francisco is in the midst of erecting a 750-acre city within a city, redeveloping Candlestick Park stadium and Hunters Point shipyard, which is in the process of being remediated because it is contaminated with hazardous wastes, most famously nuclear waste from the Cold War years.³⁵ Known as the biggest redevelopment in the city's modern history, with expected investments in the billions of dollars, the redevelopment envisions creating 12,000 housing units alongside five million square feet of commercial and retail space and 350 acres of public space, including cultural centers and parks.³⁶

Once finished, the developments at the shipyard and Candle Stick Park stadium to the south (and other developments in the works to the west) will be dotted with parks and bayside trails: "Think 'Crissy Fields meet the High Line.'"³⁷ Adding to this dramatic change in the neighborhood, one of the two shuttered power plant sites is also slated for development.³⁸ In the words of one community activist whose mother was among those evicted from the Western Addition and found a home in Bayview, the new development is not for "her or for her grandchildren":

"It would be positive if they cleaned up . . . parks and made them really nice and left open space, because it used to be a community of children. . . . Unfortunately, the plan is to tear down and make walkways. To tear down all of the old buildings . . . Put grass over it. And make a few docks and restaurants where people with boats from as far away as Oakland, Richmond, and San Jose can sail up and pull over . . . and have lunch or dinner. Nice restaurants and music areas, stroll through the wetlands and that kind of thing. And I'm thinking, 'Wow. How many folks do you know that live in public

and 234 show home ownership data); *See generally* Nafici, *supra* note 6. Younger populations of Black residents are more likely to leave the city than those who are older. Erlich, *supra* note 19, at 32.

34. Erlich, *supra* note 19, at 47 (describing how three banks popped up in Bayview during this period and documenting the large number of foreclosures between 2008 and 2009).

35. Kang, *supra* note 6, at 233 & n.58.

36. *Id.* at 233 n.58 & 224-32; Pendarvis Harshaw, *Do Parks Push People Out*, BAY NATURE MAGAZINE (Oct. 1, 2018), <https://baynature.org/article/do-parks-push-people-out/>.

37. Crissy Field (not Crissy Fields, as identified in the quote) is greenspace along the San Francisco Bay shoreline in the Marina District, where 78 percent of the residents are white. *See* Harshaw, *supra* note 36.

38. Adam Brinklow, *Where SF Plans to Build its Next 40,000 Homes*, CURBED SAN FRANCISCO (Dec. 23, 2019), <https://sf.curbed.com/maps/map-san-francisco-development-planning-pipeline-housing>.

housing, personally? And how many of them do you know own boats?”³⁹

Those are words of Marie Harrison, who had more searing words that capture the Bayview residents’ sentiments about the massive redevelopment taking over their neighborhood:

“When you sit [in] a room full of poor folks on one side and homeowners on the other side, who are trying to bring all of this . . . ‘greening’ into our areas, and trying to pass it off as something that’s going to be good and healthy for you, and you can’t see through that? And I’m saying, ‘Good Lord! We’re black, we’re not stupid.’”⁴⁰

II. CONNECTING THE DOTS: FROM REDLINING TO INJUSTICE IN BAYVIEW-HUNTERS POINT

Although researchers have not yet comprehensively layered intersecting dimensions of inequalities in historically redlined communities – i.e., pollution, food insecurity, police violence, urban redevelopment based on “blight,” provision of public services, among others – they are on their way of doing so.⁴¹ Notably, the National Community Reinvestment Coalition (“NCRC”) recently published a report, “Redlining and Neighborhood Health,” demonstrating a greater incidence of COVID-19 risk factors in once redlined neighborhoods; relatedly, other studies are finding that Black populations in the United States dispropor-

39. *Id.* Marie Harrison is a longtime advocate and resident of Bayview, whose family was pushed out of the Western Addition in the 1960s and then moved to Stockton in 2016. *Id.*; Fulbright, *supra* note 24. Harrison describes her mother’s struggle to find substitute housing after the Western Addition eviction. *Id.*

40. Harshaw, *supra* note 36. The interactive map at Mapping Inequality lends itself to layering. See, e.g., Brad Plumer & Nadja Popovich, *How Decades of Racist Housing Policy Left Neighborhoods Sweltering*, N.Y. TIMES (Aug. 24, 2020), <https://www.nytimes.com/interactive/2020/08/24/climate/racism-redlining-cities-global-warming.html> (historically redlined neighborhoods have less tree canopy coverage, which makes them hotter in summers and more dangerous to residents as the climate continues to warm).

41. These inequities are markers of systemic racial discrimination. Such discrimination “refers to the interlocking of racial disparities across multiple dimensions: residential location, education, employment and income, access to financial services and credit, justice, healthy food, a clean environment and quality of health services.” Jason Richardson, Bruce C. Mitchell, Jad Edlebi, Helen C.S. Meier & Emily Lynch, *The Lasting Impact of Historic “Redlining” on Neighborhood Health: Higher Prevalence of COVID-19 Risk Factors 6*, NATIONAL COMMUNITY REINVESTMENT COALITION (2020) [hereinafter “NCRC Report”], <https://ncrc.org/holc-health/> (citing Barbara Reskin, *The Race Discrimination System*, 38 ANN. REV. OF SOC. 17 (2012)).

tionately suffer and die from COVID-19.⁴² These results are consistent with research concluding that “[r]acial residential segregation is a foundation of structural racism, and contributes to racialized health inequities.”⁴³ In particular, health researchers note that racialized differences in health outcomes are consistent with research connecting elevated health risks and reduced access to health care in formerly redlined areas, on the one hand, and segregation and socio-economic factors and health outcomes, on the other.⁴⁴

Specific to Bayview, connecting the formerly redlined areas of Bayview with a measure of social vulnerability, NCRC’s report shows that the neighborhood, even with post-1970 demographic changes, is highly vulnerable: D16 and a part of D17, which are part of Bayview in the HOLC map (Figure 1), register Social Vulnerability Indices of 0.779 and 0.928, on a zero-to-one scale, based on the 2018 Center for Disease Control and Prevention’s data.⁴⁵ The Social Vulnerability Index, however, does not account for pollution. Bayview also ranks among the highest

42. Robert K. Nelson, *Mapping Inequality: There Were No Dog Whistles, The Racism Was Loud and Clear*, NATIONAL COMMUNITY REINVESTMENT COALITION (Sept. 10, 2020), <https://www.ncrc.org/mapping-inequality-there-were-no-dog-whistles-the-racism-was-loud-and-clear/> (NCRC “analysis that showed more chronic disease and greater risks from COVID-19 in formerly redlined communities”); Alyssa S. Parpia, Isabel Martinez, Abdulrahman M. El-Sayed, Chad R. Wells, Lindsey Myers & Jeffrey Duncan et al., *Racial Disparities in COVID-19 Mortality Across Michigan, United States*, THE LANCET (Feb. 26, 2021), [https://www.thelancet.com/journals/eclinm/article/PIIS2589-5370\(21\)00041-9/fulltext](https://www.thelancet.com/journals/eclinm/article/PIIS2589-5370(21)00041-9/fulltext) (concluding the “Black populations are disproportionately burdened by COVID-19 mortality, even after accounting for demographic and underlying health characteristics” and “highlight[ing] how disparities across race, which result from systemic racism, are compounded in crises”).

43. NCRC Report, *supra* note 41, at 27; see Nancy Krieger, Gretchen Van Wye, Mary Huynh, Pamela Waterman, Gil Marduro, Wenhui Li & R. Charon Gwynn et al., *Structural Racism, Historical Redlining, and Risk of Preterm Birth in New York City, 2013-2017*, 110 AM. J. OF PUB. HEALTH 1046, 1050 (July 2020) (“80 years after the HOLC grades were delineated . . . , they remained associated with contemporary risk of preterm births” in New York City).

44. Krieger, *supra* note 43, at 1050; Parpia, *supra* note 42, at .

45. See D16, NOT EVEN PAST: SOCIAL VULNERABILITY AND THE LEGACY OF REDLINING (last visited Mar. 6, 2021), <https://dsl.richmond.edu/socialvulnerability/map/#loc=14/37.725/-122.388&city=san-francisco-ca&area=20-D16>; see also D17, NOT EVEN PAST: SOCIAL VULNERABILITY AND THE LEGACY OF REDLINING (last visited Mar. 6, 2021), <https://dsl.richmond.edu/socialvulnerability/map/#loc=14/37.725/-122.388&city=san-francisco-ca&area=20-D17>. The index, originally developed for disaster management, accounts for “1) socioeconomic status, 2) household composition and disability, 3) minority status and language, and 4) housing and transportation.” Barry E. Flanagan, Edward W. Gregory, Elaine J. Hallisey, Janet L. Heitgerd & Brian Lewis, *A Social Vulnerability Index for Disaster Management*, 8 J. OF HOMELAND SEC. AND EMERGENCY MGMT. 1, 4 (2011), <https://svi.cdc.gov/A%20Social%20Vulnerability%20Index%20for%20Disaster%20Management.pdf>.

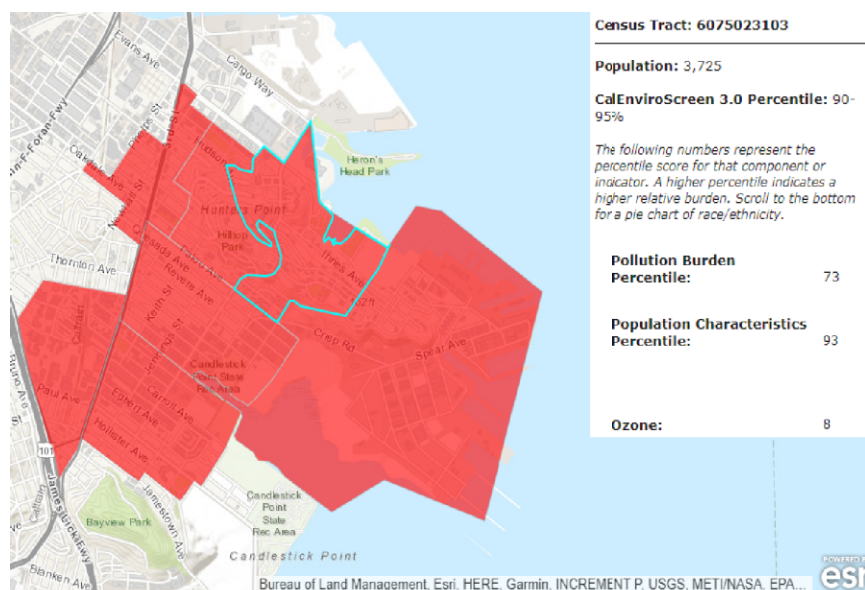
in the State of California on a measure of inequity based on pollution burden and socio-economic factors, called CalEnviroScreen.⁴⁶ CalEnviroScreen is a tool that factors in twenty indicators of cumulative pollution exposure and burden and population characteristics for each of California's 1,800 census tracts and ranks them.⁴⁷ Race is not among the twenty factors taken into account but is reported on the CalEnviroScreen mapping tool.⁴⁸ All of the areas east of Third Street, the main thoroughfare east of 101 North, which are part of Bayview, score in the 85 to 90th percentile, except the area in the figure below marked in the color aqua, which scores in the 90 to 95th percentile, meaning that the burden is higher than the 85 to 95 percent of the census tracts in California.⁴⁹

46. Tiffany Eng, Amy Vanderwarker, Marybelle Nzegwu, *CalEnviroScreen: A Critical Tool for Achieving Environmental Justice in California*, CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE 13 (2018), https://calgreenzones.org/wp-content/uploads/2018/09/CEJA-CES-Report-2018_web.pdf [hereinafter "CEJA CalEnviroScreen Report"]. The latest version was adopted as CalEnviroScreen 3.0 in 2018. *Id.* at 15.

47. *Id.*

48. *Id.*

49. See *SB 535 Disadvantaged Communities*, CALIFORNIA OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT (last updated June 2017), <https://oehha.ca.gov/calenviroscreen/sb535>. The census tracts do not correspond neatly to the neighborhood boundaries of Bayview. Pollution sources in Bayview are numerous: the largest percentage of industrial sites, brownfields, and leaking underground fuel tanks in San Francisco are located there, as are multiple sources of air pollution. The only two power plants in the city existed in the neighborhood until they were shuttered through community efforts. The older of the two wastewater treatment plants in the city handling 80 percent of the city's sewage—and created odor problems for residents—still operate there, as does a biodiesel plant that handles animal carcasses. Most publicized of all is the Hunters Point shipyard, which is a Superfund site contaminated with radioactive and other hazardous substances, including from the radiation laboratory that operated there, as noted above. Kang, *supra* note 6, at 223; see also Miriam Solis, *Conditions and Consequences of ELULU Improvement: Environmental Justice Lessons from San Francisco, CA*, J. OF PLANNING ED. & RES. (2020), <https://doi.org/10.1177/0739456X20929407>. A long-time advocate, the Bayview Hunters Point Community Advocates also reports that Bayview lacks groceries and pharmacies. The area also floods and experiences sewage overflows.

FIGURE 3 SOURCE: OEHHA⁵⁰

At the same time that these tools and efforts highlight the connection between the enduring legacy of redlining, they also illustrate the imperfection inherent in hewing to the HOLC maps to census-tract level data that are generally considered more finetuned.⁵¹ For example, the development of the Social Vulnerability Index postdates the peak period of Black residency in Bayview, the 1970s, and thus assessing the 1970s population characteristics against measures of vulnerability is not simple. Nor do tools like CalEnviroScreen allow for historical pollution assessments. For example, in the 1970s, when the Black population in Bayview was at its height, two power plants were in operation, emitting large amounts of pollution.⁵² In other words, it is difficult to connect the dots of segregation and redlining to pollution and other disamenities: the measures of inequality are imperfect because the relevant data are limited or difficult to mine, and the displacement of Black residents in redlined communities make it tricky to connect the dots between the conditions and the harms of segregation. With more of these endeavors studying and reporting the inequalities, the intersectionality of womb-to-grave inequalities among

50. *SB 535 Disadvantaged Communities*, *supra* note 49.

51. CEJA CalEnviroScreen Report, *supra* note 46, at 51.

52. Helen H. Kang, *Fighting for Environmental Justice Takes Long-Lasting Coalitions*, 45 CLIMATE CHANGE L. & POL'Y 158 (2011).

Black populations across the nation will become even more powerfully graphic.⁵³

Regardless of whether the inequities can be mapped, however, there is basis for hypothesizing the connection between the redlining practices and 21st century inequities. Like Bayview, following segregation and divestment of resources, redlined areas elsewhere in the country show similar characteristics, which are connected to negative health outcomes: limited “place-based resources for healthy living as features of the built environment, environmental pollution, quality and availability of housing stock, access to transportation, presence of local employers and access to well-paying jobs, presence of and access to well-resourced schools, and access to and quality of health facilities, food stores, bank branches, social services, and parks and recreational facilities.”⁵⁴ Needless to say, these are neighborhood characteristics that are harms in themselves, not just causal linkages to health harms.⁵⁵

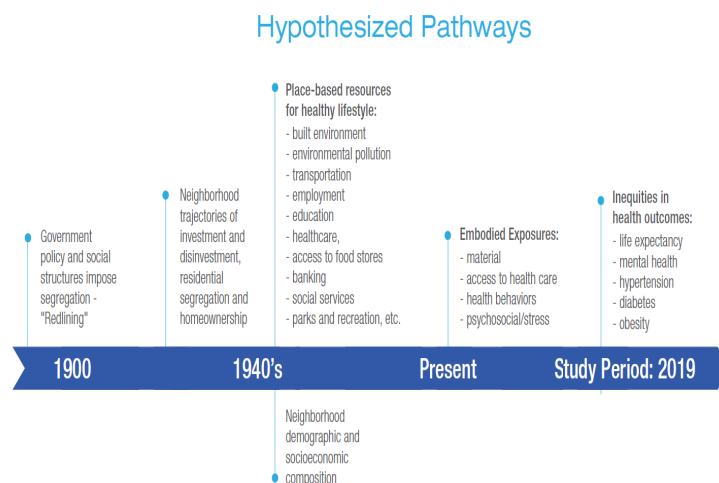


Figure 1. Hypothesized pathways linking redlining and policies of segregation to current health outcomes at the neighborhood level. (After Krieger, 2020)

53. Kang, *supra* note 6, at 255–56 (discussion of multiple inequalities for Black Americans).

54. Krieger, *supra* note 43, at 1047 (see chart).

55. In turn, pollution in areas like Bayview affects children’s cognition; air pollution also diminishes academic opportunities when the resulting illnesses like asthma increase the number of days children miss school, which then affects educational outcomes. See James K. Boyce, Klara Zwickl & Michael Ash, *Three Measures of Environmental Inequality*, INSTITUTE FOR NEW ECONOMIC THINKING, Working Paper No. 12, at 6–7 (Aug. 1, 2015), <http://ssrn.com/abstract=2638089>.

FIGURE 4 SOURCE: NCRC
 PATHWAY HYPOTHESIZED FOR LINKING REDLINING AND SEGREGATION TO
 HEALTH⁵⁶

Likewise, gentrification and displacement also cause harm.⁵⁷ Take the residents of the Western Addition who were displaced. They were not simply deprived of their property. According to community leaders, they suffered health harms; this anecdotal evidence is supported by literature on health impacts of displacement.⁵⁸ Studies document that “populations displaced by gentrification, as compared to those who remained, typically have shorter life expectancy, higher cancer rates, more birth defects, greater infant mortality, and higher incidences of asthma, diabetes, and cardiovascular disease.”⁵⁹ For African Americans in California, “gentrification was associated with poor self-rated health.”⁶⁰ Displacement can also profoundly harm mental health.⁶¹ Other impacts include loss of culture (in what some characterize as “cultural homicide”),⁶² sense of place, community, and neighborhood resilience.⁶³

56. NCRC Report, *supra* note 41, at 15 (citing Krieger, *supra* note 43).

57. See generally *Health Effects on Gentrification*, CENTERS FOR DISEASE CONTROL AND PREVENTION (Oct. 15, 2009), <https://www.cdc.gov/healthyplaces/healthtopics/gentrification.htm>.

58. The Rev. Amos Brown described the destruction of the Fillmore–Western Addition District:

There is still [forty years later] frustration, hopelessness and a negative mindset on the part of the African American community because of what redevelopment did . . . They wiped out our community, weakened our institutional base and never carried out their promise to bring people back.

Fulbright, *supra* note 24. This displacement led James Baldwin to remark, “redevelopment is “removal of Negroes” and that despite San Francisco’s progressive image, it was no different from Birmingham, Alabama.” Taylor, *supra* note 5.

59. Tehrani, *supra* note 15, at 8.

60. *Id.*

61. *Id.* at 9.

62. Townsend, *supra* note 25, at 52 (antieviction mapping map).

63. Tehrani, *supra* note 15, at 8–9. “Many say they feel like strangers in their own city.” Other less well-known impacts from the displacement of Black residents from the Western Addition to Bayview relate to “violent turf battles . . . [in] the volatile drug market.” Erlich, *supra* note 19 at 31. See also Taylor, *supra* note 5.

III. LOOKING OUTSIDE THE TRADITIONAL ENVIRONMENTAL TOOLBOX TO A MULTI-FACETED APPROACH TO ACHIEVE RESTORATIVE JUSTICE

So far, I have argued that the problems Bayview residents face are those rooted in its segregation past, whose tentacles reach to the present. In the intervening years, the virulent prejudices Black communities have faced as a result of systemic racism further entrenched the mind-boggling destruction of Black people and their culture. In this decade, the cleanup of the shipyard, rather than being celebrated, is resulting in unabated displacement of Bayview's original Black population. Indeed, Marie Harrison, in describing how the new Bayview is not for her, is describing what happens with "eco-," "green," or environmental gentrification—in the words of another, when redevelopment focuses on place instead of on people.⁶⁴ The benefits of the complex and colossal environmental cleanup of the shipyard⁶⁵ and the creation of highly desirable greenspace will not inure to the people who once lived in Bayview or their children and grandchildren. Instead, as some Bayview residents poignantly describe, the displaced and the soon-to-be displaced have simply served as human filters, carrying with them body burdens of pollution. Compounding the injustice, these residents have historically toiled to have Bayview cleaned up. This environmental injustice, where the displaced cannot benefit from the cleanup even though they bore the brunt of the cumulative pollution in Bayview, cannot be redressed with environmental solutions. This injustice is a result of systemic problems requiring systemic solutions.

A. *The Neglected Framework of People-Based Restorative Justice*

Academic literature on environmental justice has focused primarily on distributive and procedural injustices, with a few notable exceptions.⁶⁶ Environmental advocacy and litigation brought on behalf of environmental justice communities ("EJ communities"), too, have focused on re-

64. Nafici, *supra* note 6, at 10. See Juliana A. Maantay & Andrew R. Maroko, *Brownfields to Greenfields: Environmental Justice Versus Environmental Gentrification*, 15 INT'L J. ENV'T RES. & PUB. HEALTH (2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6210586/>.

65. See Kang, *supra* note 6, at 223–45.

66. E.g., Rebecca Bratspies, *Renewable Rikers: A Plan for Restorative Environmental Justice*, 66 LOYOLA L. REV. 371 (2021); Carmen G. Gonzalez, *Migration as Reparation: Climate Change and the Disruption of Borders*, 66 LOYOLA L. REV. 401 (2021) (arguing for migration as a form of reparation integrating climate, racial and post-colonial justice); Sproat, Dana, *An Indigenous People's Right to Environmental Self-Determination: Native Hawaiians and the Struggle Against Climate Change Devastation*, 35 STAN. ENV. L.J. 157 (2016) (examining the potential for Native Hawaiian use of local laws to seek restorative justice for remedying environmental and cultural damages).

addressing those injustices; in addition, because of the nature of the remedies under environmental laws, litigation has focused on corrective justice—penalties and injunctive relief.⁶⁷ The reasons are somewhat obvious. First, the descriptions of communities that are considered EJ communities rely on the distributive injustice of disproportionality of pollution and environmental benefits such as green space, access to healthy foods, and basic amenities, including safe drinking water and utility and public services. Even President Clinton's Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," focuses on the disproportionality of pollution and benefits and public participation.⁶⁸ Second, one of the very reasons that distributive and procedural injustices afflict EJ communities is attributable to the failure of governments, corporations, and the nation's laws to address disproportionate environmental burdens and barriers to public participation: more than forty years since environmental justice became a rallying cry, communities of color still bear a disproportionate pollution burden, as study after study document. And, EJ communities remain largely uninvited to, or only nominally sit at, the table when they

67. See Robert Kuehn, *A Taxonomy of Environmental Justice*, 30 ENV'T L. REP. 10681 (2000), on the taxonomy of environmental justice. In simplistic terms, opposition to siting of yet another polluter in an already polluted area implicates distributive justice; challenge to agency failure to fulfill public participation requirements, procedural injustice; and recovery of fines and imposition of injunctive relief, corrective justice. For examples seeking distributive and procedural justice, see case studies discussed in Tiffany Eng, Adeyinka Glover, Jazmine Johnson, Dan Sakaguchi & Chelsea Tu, *Rethinking Local Control in California: Placing Environmental Justice and Civil Rights at the Heart of Land Use Decision-Making*, CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE 2 (Mar. 2020), https://calgreenzones.org/wp-content/uploads/2020/03/CEJA-Report-Rethinking_Local_Control-05_web.pdf (advocating community-led decision-making "to directly address [EJ communities'] needs and priorities"); ROBERT D. BULLARD, *DUMPING IN DIXIE* 116 (1994) (characterizing disparate treatment as the "process of defending one group's privilege at the expense of another"); see also Helen H. Kang, *Pursuing Environmental Justice: Obstacles and Opportunities—Lessons from the Field*, 31 WASH. U. J. LAW & POL'Y 121, 145 (describing litigation seeking injunctive relief that at most may prevent future violations of environmental laws and civil penalties aimed at deterring future violations, which might best be characterized as corrective justice).

68. See Exec. Order No. 12898, 59 Fed. Reg. 7629 (Feb. 16, 1994). The Environmental Protection Agency defines environmental justice as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." *Environmental Justice-Related Terms as Defined Across PSC Agencies*, ENVIRONMENTAL PROTECTION AGENCY (May 13, 2013), <https://www.epa.gov/sites/production/files/2015-02/documents/team-ej-lexicon.pdf>. The State of California similarly defines environmental justice as "[t]he fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of all environmental laws, regulations, and policies." Cal. Gov't Code § 65040.12(c).

are the ones most acutely harmed. It is thus natural for distributive and procedural injustices to stand out. Third, and perhaps foremostly, though, within our current political system, distributive and procedural injustices can at least partially be redressed or corrected through the legal system, even though the available remedies may be woefully insufficient, and slippages in the legal system shortchange achievement of justice.⁶⁹ For example, communities can at least attempt to fight additional pollution sources and seek to be included in decision-making.

For these and perhaps other reasons, while focusing on distributive, procedural and, at times, corrective justice, academic literature on environmental justice is sparse on restorative justice.⁷⁰ This is not to say scholars have ignored restorative justice. At times, it may be subsumed under the concept of social justice.

In this context, it may not be surprising that restorative justice is rarely the focus of any policy at any level of government for redressing environmental harms. Rarely have the harms imposed on EJ communities been redressed to make the community whole, whatever that may be. Yet restorative justice, particularly people-based restorative justice, not just environmental cleanup, is a critical lens to employ if we as a society are to fulfill the moral responsibilities that follow from the injustices done to EJ communities.

In contrast to governmental efforts to redress environmental injustice, grassroots advocates have embraced concepts of people-based restorative justice to redress environmental harms that are intimately connected with injustices resulting from the segregation past and present.⁷¹ Recently, for example, in evaluating a class action settlement resulting from the Flint water crisis in Michigan, advocates made clear that remedies available through employing the traditional lens of justice were inadequate to make Flint whole:

[P]art of the work of justice is empowering community members to determine for themselves what justice means and when justice has been done. . . . [O]utside assessments of harm have repeatedly failed to capture the scope of our crisis, incorporate community knowledge and concerns and imagine what it will

69. See, e.g., Kang, *supra* note 67.

70. Darren McCauley & Raphael Heffron, *Just Transition: Integrating Climate, Energy and Environmental Justice*, 119 ENERGY POL'Y 1 (2018) (stating that the “two dominant frames of analysis” in climate, energy, and environmental justice is distributional and procedural justice and recognizing restorative justice as an “underdeveloped” dimension).

71. See, e.g., Principles of Environmental Justice, *Proceedings*, THE FIRST PEOPLE OF COLOR ENVIRONMENTAL LEADERSHIP SUMMIT xiii (Oct. 24–27, 1991). Principle 9 states, “Environmental justice protects the right of victims of environmental injustice to receive full compensation and reparations for damages as well as quality health care.”

take for the community to thrive as opposed to merely surviving.

...

We will still be expecting adequate health care and wrap-around services. We will still be expecting the repeal of [Michigan] emergency manager laws that stripped us of democracy and put our water under the control of unelected autocrats. And we will be insisting, as always, that people ask us and our fellow residents before concluding that Flint has been made whole.⁷²

Like these grassroots advocates, labor unions before them began to use the restorative justice frame in the 1980s in advocating for job restoration to their members hurt by large-scale shuttering of fossil-fuel industries.⁷³

Governments who were actors in creating the disparities should employ this people-based restorative justice framework to redress the harm done to the displaced Bayview residents.

B. *Opportunities to Incorporate Restorative Justice: A Whole-of-Government Approach*

Solutions being proposed in response to the recent call for racial justice that arose during the COVID-19 pandemic, as well as the deepening climate crisis driving the move toward the Green New Deal, offer unparalleled opportunities for making whole displaced communities, including the Bayview community. So does the reparations movement that has been building, even though it has not seen traction in Congress. Remarkably, a recent report from the *Lancet* Commission on Public Policy and Health in the Trump Era recommended legislative action to “[c]ompensate Native Americans, Native Hawaiians, Puerto Ricans and

72. Bob Brown, Leon El-Alamin, Latisha Jones, Claire McClinton, Mona Munroe-Younis, Juani Olivares, Benjamin J. Pauli, Dan Scheid, Nayyirah Shariff, Laura Sullivan & Monica M. Villarreal, *A Long Way from Justice: Reflections from Flint on the \$600 Million Settlement Proposal*, 13 ENV'T JUSTICE 222, 223-24 (2020). For background, see Lindsey J. Butler, Madeleine K. Scammell & Eugene B. Benson, *The Flint, Michigan, Water Crisis: A Case Study in Regulatory Failure and Environmental Injustice*, 9 ENV'T JUSTICE 93 (2016). Michigan law allows replacing democratically-elected local government with an emergency city manager, purportedly to protect financial accountability. Mich. Pub. Acts § 436 (2013).

73. McCauley, *supra* note 70, at 4-5.

African Americans for the wealth denied to and confiscated from those groups in the past.”⁷⁴

The Biden-Harris administration, in particular, has adopted a whole-of-government approach to environmental justice,⁷⁵ which may be the closest approach to applying the restorative framework to achieve environmental justice (even though the administration has not referred to the framework). That it may be the “closest” also does not mean that it indeed is envisioned to achieve restorative justice. The new administration, however, has recognized that addressing environmental justice is not simply a matter of tinkering at the edges – that deeply-rooted problems require multi-agency collaboration. The Biden-Harris administration, which appears to be responding to the call for racial justice reforms, at least in its early actions, should take the opportunity to solve the problem of racial injustice in communities like Bayview and the problems the federal government actively participated in causing.

Solutions will not be easy. In fact, it may take a new Marshall Plan-like effort, as some Black leaders in San Francisco have in the past called for.⁷⁶ Solutions may be too complex because of the deeply-entrenched nature of systemic discrimination and the enormity of the problems it left in its wake.⁷⁷ But without envisioning achievement of restorative justice for the people of Bayview (and not just the place of Bayview), the envi-

74. *Health in the Trump Era*, THE LANCET (last visited Mar. 11, 2021), <https://www.thelancet.com/infographics/trump>.

75. Executive Order on Tackling the Climate Crisis at Home and Abroad, 86 Fed. Reg. 7619 (Jan. 27, 2021). Interestingly, the Biden-Harris administration announced a people-based restorative justice approach to redressing the harm done to families forcibly separated at the U.S.-Mexican border under the previous administration’s immigration policy, promising to “address the family needs, so we are acting as restoratively as possible.” *Press Briefing by Press Secretary Jen Psaki and Secretary of Homeland Security Alejandro Mayorkas*, THE WHITE HOUSE (Mar. 1, 2021), <https://www.whitehouse.gov/briefing-room/press-briefings/2021/03/01/press-briefing-by-press-secretary-jen-psaki-and-secretary-of-homeland-security-alejandro-mayorkas/>.

76. Nanette Asimov, *Rev. Amos Brown says S.F. needs a Marshall Plan for black residents*, SF GATE (Dec. 24, 2007), <https://www.sfgate.com/bayarea/article/Rev-Amos-Brown-says-S-F-needs-a-Marshall-Plan-3234426.php>.

77. As Reskin has proposed, attacking systemic racism will involve at the very least “identifying and intervening at leverage points, implementing interventions to operate simultaneously across subsystems, isolating subsystems from the larger discrimination system, and directly challenging the processes through which emergent discrimination strengthens within-subsystem disparities.” Reskin, *supra* note 41. Reskin, however, is concerned in her article with fixing the system and perhaps is addressing social justice. Kuehn, *supra* note 97, at 10697 (“The demands of social justice are . . . first, that the members of every class have enough resources and enough power to live as befits human beings, and second, that the privileged classes, whoever they are, be accountable to the wider society for the way they use their advantages.”) (citations omitted). In this article, I am concerned with making whole the people the government left behind.

ronmental justice movement will fail its founding as a transformative movement.⁷⁸

CONCLUSION

The federal and local governments created Bayview as a segregated community. The city then intensified this segregation when it destroyed the Western Addition, eliminating one of the two areas where most of the city's Black population lived. In recent years, the city's mega-redevelopment effort is once again displacing the city's Black population.

Meanwhile, the most notable features that signified the polluted landscape of the Bayview community—the power plants and the stacks that once emitted pollution right at the level of the residences uphill—are gone, primarily as a result of the persistent advocacy of the community. Significant green space is also being created and envisioned. Yet, having been subject to the harms of segregation, African Americans who once lived in Bayview are not there to enjoy the fruits of their labors. Instead, the displaced are likely occupying yet another landscape dotted with pollution sources.

To remedy the injustices of this past, the focus on environmental justice is too narrow a vision, while still fundamental. The solutions require a whole-of-government approach.

78. See Dorcetta Taylor, *The Rise of the Environmental Justice Paradigm*, 43 AM. BEH. SCI. 508, 521 (2000) (characterizing the environmental justice movement as a “transformative movement,” seeking “broad or sweeping changes in the social structure and its ideological foundation” and contrasting the movement with reformative movements that seek to make incremental change).

